

Code A

From: Code A
Sent: 18 March 2009 17:18
To: 'Greg Clark-SO'
Subject: RE: FOI-393 Freedom of Information Act Request from BBC TV in Southampton

Dear Mr Clark

Further to my response of 6 March 2009. As stated in that email I have been following up your enquiries with our legal advisors, and apologise for the delay in providing a response.

To respond to your individual questions:

In rejecting my first request for the 1991 Internal management report you place an exemption under Section 31 (c) of the Act. In reaching this decision, can you specifically tell me whether you have established if the report has been disclosed to the Coroner for the forthcoming inquests?

Disclosure of documentation to the Coroner is taking place through our legal advisors and having checked with them we are advised that this process remains to be completed and will be a continuous process up to and during the inquests. We are unable therefore to confirm whether or not the specific document to which you refer has been disclosed or will be disclosed to the Coroner.

You say that any post-inquest release of this information would have to be considered at a later date. Please could you explain why this cannot be considered now. With the conclusion of the inquests estimated to be just six or seven weeks away, one solution would be to examine releasing information on the day the inquests conclude.

The Public Interest Test undertaken by Hampshire PCT in considering the possible release of the information requested prior to the conclusion of the inquests demonstrated that to release only part of the whole of the information related to these inquests at this stage could:

- project an unbalanced perspective to the public when viewed out of context
- have the potential to influence the Jury
- Impact on the Coroner's role, distracting public attention from the whole of the Inquiry thus impeding his role in achieving a fair verdict
- Discourage witnesses to provide full responses in anticipation of further public release

As previously stated Hampshire PCT is willing to reconsider at a future point in time such as at the finalisation of the inquests.

If I wish to appeal against the refusal to release information, which email address can I use? The leaflet only gives a postal address.

An appeal can be directed to Hampshire PCT's Customer Services team: enquiries@hampshirepct.nhs.uk

Again, please accept my apologies for this delay in response.

Yours sincerely

18/03/2009

Code A

Freedom of Information Officer
 Hampshire PCT
 Aldershot Centre for Health
 Hospital Hill
 Aldershot
 Hampshire GU11 1AY

Direct Dial Tel: **Code A**
 Area Office Reception Tel: **Code A**
 Area Office Fax: **Code A**

Email: **Code A**

Hampshire PCT Freedom of Information Email: foi@hampshirepct.nhs.uk

From: Greg Clark-SO [mailto:**Code A**]
Sent: 05 March 2009 11:20
To: **Code A**
Subject: RE: FOI-393 Freedom of Information Act Request from BBC TV in Southampton

Dear **Code A**

Thank you for a prompt response. Can I clarify three matters before proceeding further?

In rejecting my first request for the 1991 Internal management report you place an exemption under Section 31 (c) of the Act. In reaching this decision, can you specifically tell me whether you have established if the report has been disclosed to the Coroner for the forthcoming inquests?

You say that any post-inquest release of this information would have to be considered at a later date. Please could you explain why this cannot be considered now. With the conclusion of the inquests estimated to be just six or seven weeks away, one solution would be to examine releasing information on the day the inquests conclude.

If I wish to appeal against the refusal to release information, which email address can I use? The leaflet only gives a postal address.

Regards

Greg Clark

Greg Clark, Assistant News Editor
 "South Today" BBC1 Weekdays 6.30pm

From: **Code A**
Sent: 04 March 2009 10:33
To: Greg Clark-SO
Subject: FOI-393 Freedom of Information Act Request from BBC TV in Southampton

Dear Mr Clark

18/03/2009

I am writing to confirm that Hampshire Primary Care Trust (PCT) has now completed the search for the information you requested on 4 February 2009 under the Freedom of Information Act, where you asked for an internal management report from 1991 examining drug prescribing practices at Gosport War Memorial Hospital and subsequent management minutes discussing the report and any action programme.

Request for an internal management report from 1991 examining drug prescribing practices at the hospital.

Hampshire PCT considers that, as this document forms part of the papers for the forthcoming inquests relating to Gosport War Memorial Hospital, its disclosure in the public domain at this stage would be likely to prejudice the administration of justice. Having considered the Public Interest Test the PCT is placing an exemption under Section 31(c) of the Freedom of Information Act 2000 where the administration of justice includes inquisitorial processes (such as inquiries and Coroner's courts).

Request for any subsequent management minutes discussing the report and any action programme.

Hampshire PCT considers that this information was recorded as part of internal review/investigation and release at this stage would prejudice a fair hearing and, having considered the Public Interest Test is placing an exemption under Section 30(2)(a)(i) of the Freedom of Information Act 2000.

Hampshire PCT considers that it is possible this information could be released once the inquests are concluded, however this would need to be re-considered at a future point in time.

If you have any queries about this email, please contact me. Please remember to quote the reference number above in any future communications.

If you wish to request a review of our decision or make a complaint you should write to Customer Services, Hampshire Primary Care Trust, Omega House, 112 Southampton Road, Eastleigh, Hampshire, SO50 5PB.

If you are not content with the outcome you may apply directly to the Information Commissioner for a decision. Generally, the Information Commissioner's Office cannot make a decision unless you have already exhausted the Hampshire Primary Care Trust's Freedom of Information complaints procedure. In line with the Information Commissioner's guidance when the provision of information is refused please see the following link to the ICO leaflet "*Freedom of Information and Environmental Information Regulations - When and how to complain*":

http://www.ico.gov.uk/upload/documents/library/freedom_of_information/practical_application/ico_foi_eir_how

Further information about the Freedom of Information Act can be sourced on the Information Commissioner's website: <http://www.ico.gov.uk/>

Yours sincerely

Code A

Freedom of Information Officer
Hampshire PCT
Aldershot Centre for Health
Hospital Hill
Aldershot
Hampshire GU11 1AY

Direct Dial Tel: **Code A**
Area Office Reception Tel: **Code A**
Area Office Fax: **Code A**

Email: **Code A**

18/03/2009

Hampshire PCT Freedom of Information Email: foi@hampshirepct.nhs.uk

From: Greg Clark-SO [mailto:Code A]
Sent: 04 February 2009 18:30
To: FOI (HPCT)
Subject: Freedom of Information Act Request from BBC TV in Southampton

Dear Sir or Madam

I am writing to make a Freedom of Information Act (FOIA) request relating to previous investigations of events at the Gosport War Memorial Hospital.

I am specifically seeking a copy of an internal management report from 1991 examining drug prescribing practices at the hospital. The existence of this document was first publicly made known in 2002 when it was apparently handed to Hampshire police as part of their investigation into a number of deaths at the hospital. At that time (approximately September 2002), the then chief executive of Fareham & Gosport Primary Care Trust, Ian Piper and Tony Horner, then chief executive of East Hampshire Primary Care Trust temporarily stepped down from their positions. I've included that detail in the hope it helps you identify the specific document because I do not know what it was officially called or who commissioned it.

For similar purposes of clarity, the report I am seeking is NOT the Commission for Health Improvement report from July 2002.

I would like a copy of the 1991 report together with any subsequent management minutes discussing the report and any action programme. I would anticipate that these documents would include references to named individuals. If that is likely to cause Data Protection Act problems, I would ask you to redact the names rather than withhold the entire document. I would argue that with the inquests opening shortly into the deaths of ten patients at the hospital which is likely to examine drug prescribing practices on the wards, the balance of the public interest test in favour of releasing this information - even with redactions - outweighs any qualified exemptions you may be considering.

I do not know whether the 1991 report is included in the disclosure bundle for the forthcoming inquests. If it is, I would ask you to provide the report as it is already, or soon will be, in the public domain. That would remove any justification not to release the document. If the report is not in the disclosure bundle, I would urge you to still make a decision in principle about releasing the information. While I have been advised that it is not possible to prejudice inquest proceedings, your organisation may take a different view so the debate would then become about the timing of an FOI publication, perhaps to coincide with the conclusion of the inquests.

My preferred format to receive this information is by email sent to: Code A
 If you need any further information from me in order to deal with my request, please use the email above or call me on Code A. I would be grateful if you could confirm that you have received this request.

Thank you very much in advance.

Greg Clark

Greg Clark, Assistant News Editor
 "South Today" BBC1 Weekdays 6.30pm
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 Southampton, Hampshire SO14 7PU
 Tel: Code A
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<http://www.bbc.co.uk>

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Disclaimer - March 4, 2009

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